IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

MFA.No. 810 OF 2000(A)

OPMV.688/1995 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, PUNALUR
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APPELLANT/PETITIONER:

NAJEEB, KASIPILLAI VEEDU,
MUSLIM STREET, KOTTARAKKARA.

BY ADV. SRI.B.SURESH KUMAR
SMT.C.G.PREETHA
SMT.K.A.MAYA

RESPONDENTS/RESPONDENTS:
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1. HABEEBULLA,
PARAPPURAM HOUSE,
PALACHIRA P.O., VARKALA.

2. THE ORIENTAL INSURANCE COMPANY LTD.,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN & ANTONY DOMINIC, JJ.

M.F.A. NO. 810 OF 2000

DATED THIS, THE 2ND DAY OF APRIL, 2007.

J U D G M E N T

Antony Dominic, J.

The claimant in O.P.(MV) No. 688/1995 on the file of the Motor Accidents Claims Tribunal, Punalur, is the appellant. In an accident that occurred on 6.3.1995, the claimant was hit by a lorry driven by the first respondent and he suffered injuries as a result of which he was hospitalized. Eventually, the claim petition was filed before the Motor Accidents Claims Tribunal, claiming Rs. 5 lakhs towards compensation for the injuries sustained. By the impugned award, the Motor Accidents Claims Tribunal awarded a total compensation of Rs. 35,000/- with 12% interest per annum from 25.5.1995 and Rs. 750/- towards costs. Complaining that the amount awarded is inadequate, the claimant has preferred this appeal.

2. It is seen from the award that Rs. 5,000/- has been awarded towards loss of earning and amenities during the period of treatment and a

sum of Rs. 15,000/- towards future loss of earning and amenities on account of the probable disability that the claimant is having. In addition to this, towards pain and suffering, Rs. 10,000/- has been awarded and Rs. 5,000/- has also been awarded for treatment and ancillary expenses. Although we have been taken through the whole case except in respect of the award towards future loss of earning and amenities we are satisfied that the award in respect of other claims are reasonable. On analysis, we noticed that Ext.A12 certificate of disability issued by the Assistant Professor of Neuro Surgery of the Medical College Hospital, also certified that the claimant is having a permanent disability of 7% due to limitation of movements of both clavicles and leg. The Tribunal has, however, not chosen to rely on these medical certificates while awarding compensation. Taking into account the fact that such certificates have been produced by the claimant and in the absence of any evidence to the contrary, we are inclined to award an additional compensation of Rs. 10,000/- towards future loss of earning and amenities in life in addition to Rs. 15,000/- already awarded by the Tribunal. Moreover, towards expenses for transportation to the hospital we do not find that anything has been granted by the Tribunal. Taking into account the fact that the claimant was admitted in the Medical College Hospital, Thiruvananthapuram, we feel that a sum of Rs.

2,000/- shall be a reasonable compensation under this head. Thus, in addition to Rs. 35,000/- already awarded by the Tribunal by the impugned award, we award an additional compensation of Rs.12,000/- (Twelve thousand only) to the claimant. The additional compensation awarded by us will also carry interest at 7% per annum from 25.5.1995 till the date of realization. The appeal is disposed of as above.

P.R. RAMAN,
(JUDGE)

ANTONY DOMINIC,
(JUDGE)

knc/-

P.R. RAMAN &
ANTONY DOMINIC, JJ
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M.F.A. NO. 810/2000
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J U D G M E N T

2.4.2007.